

### REMARKS

In response to the Non-Final Office Action mailed December 27, 2007, please consider the following remarks.

The Examiner continues to maintain the rejection of claims 1-6, 8-17, 22-34, 36-46 and 48-54 as obvious over Rebane in view of Fenton. As discussed below, Applicant respectfully submits that a *prima facie* case of obviousness has not been established by the Examiner in this case. Applicant respectfully submits that a *prima facie* case of obviousness has not been established because, when taken together, the two references do not disclose or suggest each of the elements of the claims.

In proceedings before the Patent and Trademark Office, the Examiner bears the burden of establishing a *prima facie* case of obviousness based upon the prior art. MPEP 2142; *In re Fritch*, 23 USPQ 2d 1780, 1783 (Fed. Cir. 1992). Applicants respectfully assert that the Examiner has also not yet met his burden of establishing a *prima facie* case of obviousness with respect to the rejected claims.

In rejecting claims under 35 U.S.C. §103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. *See In re Fine*, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the Examiner must make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), *viz.*, (1) the scope and content of the prior art; (2) the differences between the prior art and the claims at issue; and (3) the level of ordinary skill in the art. “[T]he examiner bears the initial burden, on review of the prior art or on any other group, of presenting a *prima facie* case of unpatentability.” *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). Furthermore, “ ‘Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.’ ” *KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741, 82 USPQ2d 1385, 1396 (2007) (quoting

*In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)). Also, "[A] patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art." *KSR* at 1741. Obviousness is then determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. See *Oetiker*, 977 F.2d at 1445, 24 USPQ2d at 1444; *Piasecki*, 745 F.2d at 1472, 223 USPQ at 788.

In rejecting claims 1-6, 8-17, 22-34, 36-46 and 48-54 over Rebane, United States Patent No. 6,662,192 in view of Fenton, United States Patent Application Publication No. 2002/0194151, the Examiner first addresses claims 1 and 11. Regarding these claims, the Examiner admits that the references do not disclose an actual Web site in Figure 18 of the '192 patent. In doing so, the Examiner also admits that the Figure and therefore the reference itself does not show a directory Web site address. To supplement this teaching, the Examiner relies on the current BizRate.com Web site address, which obviously is not prior art. Apparently the Examiner feels this is justified based on a theory of inherency. According to the Examiner, the directory Web site address would inherently have contained a description of the class of goods or services based upon this current Web site address. This is simply not so.

"To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.'" MPEP 2112(IV), citing *In re Robertson*, 169 F.3d 743, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (quoting *Continental Can Co. v. Monsanto Co.*, 948 F.2d 1264, 20 USPQ2d 1746, 1749 (Fed. Cir. 1991))(emphasis added). The uniform resource locator (URL) for a specific Web site or file on the internet can be made of any characters except spaces and a few specific characters. The first part of the URL indicates what kind of sourcing it is addressing. One such type of sourcing is http, but other sourcings are available. The second part of the URL (after the "://") contains the address of the computer being located as well as the path to the file. As shown in the attached Exhibit 1,

an example of a URL of “'http://www.cnet.com/Content/Reports/index.html,'  
'www.cnet.com' is the address or domain name of the host computer and  
'/Content/Reports/index.html' is the path to the file.” The file path could be any character string so long as it does not include a space and one of the certain characters not permitted. Accordingly, it is simply not true that Rebane inherently teaches a directory Web site address wherein a portion of the directory Web site address describes the class of goods or services for the directory Web site. The file name portion could be any string and in order for something to be inherently present it must necessarily be present. This is not such a case.

The same logic holds true for the Examiner's rejection of claim 11 on the basis of the current BizRate.com Web site with respect to a separate browser window. It is simply not true that, based on a current, non-prior art, publication that a previous version of a supposedly comparative Web site would have necessarily functioned in the way it currently does. Activating a link in the depicted page in the Rebane reference would not have necessarily opened a new browser window.

Regarding the Examiner's rejection of dependent claims 2, 3 and 14, the Examiner admits that Rebane/Fenton do not teach the directory Web site address including a domain name portion where the domain name portion of the selected directory Web site defines the selected class of goods or services. Nevertheless, the Examiner states that the difference is found in non-functional descriptive material that “do not alter how the website creating function (i.e., one having ordinary skill in the art would recognized [sic] that one can choose a domain name as desired and this [sic] nothing to do with how the website is managed). Thus, the descriptive material will not distinguish the claimed invention from the prior art in terms of patentability.” The Examiner then states:

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to choose a domain name that providing [sic] the most beneficial information to the users because choosing the domain name as desired does not alter how the web page is managed and does not patentably distinguish the claimed invention in term [sic] of functionality.

Choosing the domain name does alter how the Web site is managed and its functionality. For example, a hypothetical bizrate.com/pdas address and pdas.com address function differently. A user in the case of the former might have to enter the first address of bizrate.com, have the page load, which takes time, find the link to the subfile, activate the link and wait for the subfile to load. The user searching for pdas.com can do this in one step more readily by remembering just the domain name portion of the address. Also, the hypothetical bizrate.com/pdas page is a subfile of bizrate.com while pdas.com is a separate domain.

Additionally, regarding the rollover window of Applicant's claims 4, 6, 9 and 10, Applicant respectfully submits that Fenton does not disclose a rollover window that does not obscure other content or the Web page. Instead, as shown in Fig. 8 of the '151 application, the "rollover display box 838," which applicants believe is a pop up box, obscures content on the page. Applicant's claimed invention, in at least claims 4, 6, 9 and 10, does not obscure any information ensuring that the user does not lose access to any information on the Web site. Additionally, with respect to claim 10, Applicant respectfully submits that the cited references do not disclose where the information about at least two different suppliers is displayed in the same rollover window as claimed.

Finally, the Examiner has provisionally rejected various claims on obviousness-type double patenting grounds. Since this rejection is a provisional rejection, Applicant will address it further if it becomes non-provisional.

Applicant : Michael Meiresonne  
Appln. No. : 09/938,163  
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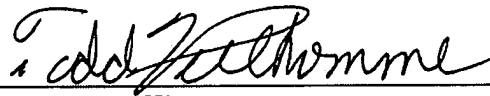
Accordingly, for at least the above reasons, Applicant respectfully submits that the presently pending claims are in condition for allowance. If the Examiner has any questions or concerns, the Examiner is kindly requested to contact the undersigned attorney at (616) 949-9610.

Respectfully submitted,

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## **EXHIBIT 1**



## EXHIBIT 1

Look up a computer term



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## URL (Uniform Resource Locator)

printable version

Stands for "Uniform Resource Locator." A URL is the address of a specific Web site or file on the Internet. It cannot have spaces or certain other characters and uses forward slashes to denote different directories. Some examples of URLs are <http://www.cnet.com/>, <http://web.mit.edu/>, and <ftp://info.apple.com/>. As you can see, not all URLs begin with "http". The first part of a URL indicates what kind of resource it is addressing. Here is a list of the different resource prefixes:

- [http](#) - a hypertext directory or document (such as a [Web page](#))
- [ftp](#) - a directory of files or an actual file available to download
- [gopher](#) - a gopher document or menu
- [telnet](#) - a Unix-based computer system that you can log into
- [news](#) - a [newsgroup](#)
- [WAIS](#) - a database or document on a Wide Area Information Search database
- [file](#) - a file located on your hard drive or some other local drive

The second part of a URL (after the "://") contains the address of the computer being located as well as the path to the file. For example, in "<http://www.cnet.com/Content/Reports/index.html>," "[www.cnet.com](http://www.cnet.com/)" is the address or domain name of the host computer and ["/Content/Reports/index.html"](#) is the path to the file. When a address ends with a slash and not something like ".html" or ".php," the Web server typically defaults to a file in the current directory named "index.html," "index.htm," or "index.php." So, if you type in "<http://www.apple.com/>" and "<http://www.apple.com/index.html>," you should get the same page. Go ahead and try it if you have nothing better to do.

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